

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5088 of 2014

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Bimlendu Kumar Singh Son Of Late Rajendra Prasad Singh Resident Of
Village - Fatehpur, P.O. Fatehpur, P.S. Didarganj, District - Patna
..... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Animal Husbandary and Fisheries Resources
Department, Government of Bihar, Patna
3. The Director, Animal Husbandry Department, Government of Bihar,
Patna
4. The Project Officer, Exotic Cattle Breeding Farm, Government of Bihar,
Patna

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pranav Kumar, Advocate.

For the Respondent/s : A.C. to AG.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

7 14-07-2015

Heard learned counsel for the parties.

2. Having regard to the very limited scope of this Court in the matter of order of transfer, it will be difficult for this Court to quash the order dated 25.02.2014 whereby and whereunder the petitioner was transferred from Patna to Motihari on the post of Livestock Assistant.

3. The only submission of the learned counsel for the petitioner that the petitioner was working on a specified particular post at Patna in the Exotic Cattle Breeding Farm, will make no difference because ultimately the cadre of the petitioner is of the post of Livestock Assistant. Learned counsel for the respondents, in fact, has given reason for transfer of the petitioner and others in

paragraph no. 5 of the counter affidavit which reads as follows:

"5. That it is humbly submitted that upon review of performance of Exotic Cattle Breeding Farm, Patna, an undue burden on State Exchequer was detected as a large number of Class-3 and Class-4 employees were working there whereas total number of animals being only 36 (that is more staff for very less work) whereas in other offices and veterinary dispensaries there is an acute shortage of Class-3 and Class-4 employees. Hence, it was decided to transfer surplus employees posted there to different offices and veterinary dispensaries of state as per requirement."

4. Suffice to say that the aforesaid reason by itself is a good and valid ground for affecting the transfer of the petitioner inasmuch as it was impossible for the Government to pay salary everyone, who was working at the Exotic Cattle Breeding Farm, Patna beyond the sanctioned strength of the post. That, in fact, would also be an answer to another submission of the learned counsel for the petitioner that the petitioner had completed only a period of three months at Patna.

5. As noted above, the period of three months, as per the Government Circular dated 24.12.1980 and subsequent circulars laying down the terms of posting of three years, is always hedged with the condition 'ordinarily'. Here was a situation when the petitioner and others were found to be working beyond the sanctioned strength, and thus the transfer order had to be issued. In fact, the earlier transfer order of the petitioner from where he was

transferred to Patna was itself bad because it was made without verification of the fact of there being available sanctioned post.

6. Considering all these aspect and the law laid down by this Court in the case of *Maan Singh vs. the State of Bihar* reported in **1982 BBCJ 392**, holding such guideline of transfer issued by the State Government to be directory in nature and thus not enforceable in writ jurisdiction it has to be held that this writ application has no merit.

7. That being so, this writ petition is dismissed and consequently the interim order passed by this Court would automatically stand vacated. The petitioner therefore must report for his joining at his transferred place within a period of one month from today, failing which the authorities shall be entitled to take appropriate disciplinary action against him.

(Mihir Kumar Jha, J)

Sujit/-

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